

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

CIVIL ACTION  
NO. 05-11443-GAO

ETHAN THOMAS  
Plaintiff,

VS.

NEW ENGLAND FAST FERRY OF  
MASSACHUSETTS, LLC,  
Defendant.

DEFENDANT'S OPPOSITION TO PLAINTIFF'S MOTIONS IN  
LIMINE CONCERNING CRIMINAL CONVICTION, USE OF  
COCAINE AND MARIJUANA USE OF STEROIDS  
AND COLLATERAL SOURCE BENEFITS

Now comes the defendant, New England Fast Ferry of Massachusetts, LLC, in the above-entitled action, by and through its undersigned counsel, and files its Opposition to Plaintiff's Motions in Limine Concerning Criminal Conviction, Use of Cocaine and Marijuana, Use of Steroids, and Collateral Source Benefits.

As grounds in support of its Opposition, the defendant submits the following for this Honorable Court's consideration.

It is the defendant's intention not to offer any evidence concerning the use of steroids or the use of cocaine and marijuana, unless such issues are raised by

the plaintiff or by his medical experts. If these issues are raised then the defendant intends to offer such evidence for impeachment purposes (if appropriate) and reserves the right to offer it as substantive evidence depending on how it is used at the time of trial. At the present writing, it is the defendant's position that it does not intend to offer direct evidence on these issues by either cross-examination or in its direct case in chief.

In respect to collateral source benefits, the defendant does not have any intention to address amounts or nature of collateral source benefits in its direct evidence. To the extent that the plaintiff is identified as an employee of the Steamship Authority, a Union, and has both Union and Steamship Authority benefits, the defendant reserves the right to offer direct evidence in that regard.

In respect to criminal conviction, the defendant intends to use the CORI Records to impeach the credibility of the plaintiff as appropriate. The CORI Records have not been received as of the date of this objection, but will be provided to opposing counsel upon receipt. The defendant reserves the right to use this information not

as direct evidence, but for purposes of impeachment and other appropriate basis as indicated in the CORI Records.

**WHEREFORE,** the defendant submits this limited opposition in that it does not intend to offer evidence on these issues, but does however, reserve the right to offer this information if raised in the plaintiff's direct case and as contained in the CORI Records.

Respectfully submitted,

By its attorneys,

**CLINTON & MUZYKA, P.C.**

"/s/Thomas J. Muzyka"

**Thomas J. Muzyka**

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